

Commodity Futures Trading Commission
CEA CASES

NAME: WILLARD E. PLATT, GEORGE F. FREY, JR., OLIVER M. HIBBERD, PATRICK M. SHEA, HENRY C. GATLIN, F & G COMMODITIES, AND RALPH N. PETERS & CO.

CITATION: 24 Agric. Dec. 102

DOCKET NUMBER: 112

DATE: FEBRUARY 9, 1965

DOCUMENT TYPE: DECISION AND ORDER

(No. 9610)

In re WILLARD E. PLATT, GEORGE F. FREY, JR., OLIVER M. HIBBERD, PATRICK M. SHEA, HENRY C. GATLIN, F & G COMMODITIES, AND RALPH N. PETERS & CO. CEA Docket No. 112. Decided February 9, 1965.

Fictitious or wash sales -- Suspension of registration -- Denial of trading privileges -- Consent -- Henry C. Gatlin

The registration of Henry C. Gatlin as a floor broker is suspended for a period of 20 days and his trading privileges on the contract markets are denied for a like period for engaging in fictitious or wash sales in violation of the act.

Mr. Earl L. Saunders for Commodity Exchange Authority. Respondent Henry C. Gatlin *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint and notice of hearing issued under section 6(b) of the act by the Assistant Secretary of Agriculture.

Respondent Henry C. Gatlin is one of seven respondents in this proceeding. The complaint charges that the said respondent offered to enter into and entered into transactions which were of the character of and which constituted wash sales and fictitious sales, in wilful violation of section 4c of the act (7 U.S.C. 6c).

No hearing has been held with respect to any of the respondents. On January 25, 1965, respondent Henry C. Gatlin submitted for filing in the record, under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)), a stipulation in which he admits the facts hereinafter set forth, waives hearing on the charges in the complaint, and consents to the entry of the order contained herein.

FINDINGS OF FACT

1. The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act.

2. Respondent Henry C. Gatlin, an individual whose address is Room 301, 6 Harrison Street, New York 13, New York, is now and was at all times material herein a registered floor broker under the Commodity Exchange Act and a member of a duly designated contract market under the act.

3. The transactions referred to herein relate to contracts for the purchase or sale of May 1963 soybean oil or May 1963 soybean meal futures on the Chicago Board of Trade. Such contracts could have been used for (a) hedging

transactions in interstate commerce in soybean oil or soybean meal or the products or by products thereof, or (b) determining the price basis of transactions in interstate commerce in soybean oil or soybean meal, or (c) delivering soybean oil or soybean meal sold, shipped, or received in interstate commerce for the fulfillment of such futures contracts.

4. On December 18, 1962, respondent Henry C. Gatlin placed an order or orders with respondent F & G Commodities, in its capacity as futures commission merchant, to purchase and to sell for Gatlin's account 19 tank cars of the May 1963 soybean oil future on the Chicago Board of Trade, which constituted an order for a "wash sale."

5. The order or orders referred to in paragraph 4 above were executed on December 18, 1962, by respondent F & G Commodities purchasing for respondent Gatlin's account 17 tank cars of the May 1963 soybean oil future at 8.94 cents per pound, one tank car at 8.95 cents per pound, and one tank car at 8.96 cents per pound, and by respondent F & G Commodities selling for respondent

Gatlin's account 17 tank cars of the May 1963 soybean oil futures at 8.94 cents per pound, one tank car at 8.95 cents per pound, and one tank car at 8.96 cents per pound.

6. On December 19, 1962, respondent Henry C. Gatlin placed an order or orders with respondent F & G Commodities, in its capacity as futures commission merchant, to purchase and to sell for Gatlin's account 24 contracts (2,400 tons) of the May 1963 soybean meal future on the Chicago Board of Trade, which constituted an order for a "wash sale."

7. The order or orders referred to in paragraph 6 above were executed on December 19, 1962, by respondent F & G Commodities purchasing for respondent Gatlin's account 23 contracts of the May 1963 soybean meal future at \$ 65.00 per ton and one contract of such future at \$ 65.10 per ton and by respondent F & G Commodities selling 23 contracts of the May 1963 soybean meal future at \$ 65.00 per ton and one contract of such future at \$ 65.10 per ton.

CONCLUSIONS

Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) makes it unlawful for any person to offer to enter into, or enter into, any transaction "(A) if such transaction is, is of the character of, or is commonly known to the trade as, a 'wash sale' . . . or is a fictitious sale." The facts admitted in Findings of Fact 4 through 7 hereof show that on each of the dates in question respondent Gatlin placed an order or orders with a futures commission merchant for the making of a wash sale for the said respondent's account, and that pursuant to such orders wash sales were made for his account. It is concluded, therefore, that respondent Gatlin violated section 4c of the act as alleged in the complaint.

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and order, and that they believe that the proposed sanctions are adequate and that the prompt entry of such an order would constitute a satisfactory disposition of this case as against respondent Gatlin, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant recommends, therefore, that the stipulation and waiver be accepted and that the proposed order be issued. It is so concluded.

ORDER

The registration of respondent Henry C. Gatlin as a floor broker is hereby suspended for a period of twenty (20) days, effective on the thirtieth day after the date of entry of this order, and all contract markets shall refuse all trading privileges to the said Henry C. Gatlin for the said period of twenty

days, such refusal to apply to all trading done and positions held by him directly or indirectly.

A copy of this Decision and Order shall be served on each of the respondents and on each contract market.

LOAD-DATE: June 8, 2008

